

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

DONALD WAYNE POOLE, Petitioner, vs. J.W. COX, in his capacity as Warden, Yankton Federal Prison Camp, Respondent.	4:21-CV-04012-KES ORDER GRANTING RESPONDENT'S SECOND MOTION TO DISMISS AND ADOPTING THE MAGISTRATE JUDGE'S SECOND REPORT AND RECOMMENDATION
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Petitioner, Donald Wayne Poole, filed a petition for Writ of Habeas Corpus under 28 U.S.C. § 2241. Docket 1. Poole seeks immediate application of his earned time credits under 18 U.S.C. § 3621(h)(4). *See id.* at 6-8. The court referred the motion to Magistrate Judge Veronica Duffy under 28 U.S.C. § 636(b)(1)(B) and this court's October 16, 2014, standing order.

Respondent now moves to dismiss Poole's petition for lack of subject-matter jurisdiction. Docket 15. The Magistrate Judge entered a report and recommendation recommending Poole's petition be dismissed for lack of subject-matter jurisdiction. Docket 18 at 3. Specifically, because Poole has already been released from BOP custody, the Magistrate Judge finds that this matter is moot. *Id.* Poole did not file objections to Magistrate Judge Duffy's report and recommendation. After de novo review of the record, this court adopts the Magistrate Judge's report and recommendation in full and grants respondent's motion to dismiss for lack of subject-matter jurisdiction.

Thus, it is ORDERED:

1. That respondent's second motion to dismiss (Docket 15) is granted.
Poole's petition for writ of habeas corpus under 28 U.S.C. § 2241
(Docket 1) is dismissed without prejudice.
2. That the Magistrate Judge's second report and recommendation
(Docket 18) is adopted in full as supplemented herein.

Dated January 12, 2022.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE